

BYLAWS
Of
YELLOWTOP MOUNTAIN PROPERTY OWNERS ASSOCIATION

Adopted September 29, 2007

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BYLAWS
OF
YELLOWTOP MOUNTAIN PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I

GENERAL

Section 1. Name. The name of the corporation is "Yellowtop Mountain Property Owners Association, Inc."

Section 2. Principal Address. The principal address of the corporation shall be P.O. Box 7, Bostic, NC 28018.

Section 3. Definitions.

"Association" shall mean and refer to Yellowtop Mountain Property Owners Association, Inc., its successors and assigns.

- (a) "Declaration" shall mean and refer to the Restrictive Covenants of the Association dated 6/19/03 and recorded with the Rutherford County Register of Deeds on 6/25/03, or as subsequently revised.
- (b) "Properties" shall mean and refer to the real property described in the Covenants, along with any additional real property subjected to the Covenants as therein provided.
- (c) "Common Property" shall mean and refer to all real property owned, now or in the future, by the Association for the common use and enjoyment of the Owners.
- (d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map and included in the description of the Properties with the exception of the Common Property.
- (e) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, except those having such interest merely as security for the performance of an obligation.
- (f) "Member" shall mean and refer to those persons entitled to membership in the Association.
- (g) "Declarant" shall mean Fall Creek Land Company.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is included in the Properties shall be a Member of the Association; provided that persons or entities who hold an interest in a Lot merely as security for the performance of an obligation shall not be Members. Membership shall be appurtenant to and may not be separated from ownership of any Lot included in the Properties.

Section 2. Voting Rights The members shall be entitled to one (1) vote for each Lot owned. The vote for any one Lot owned by more than one person or entity shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.

Section 3. Automatic Suspension of Voting Rights. Any Member who is in default in the payment of dues or assessments as defined in the Covenants, shall automatically lose voting rights until such default has been corrected by payment of all amounts owing.

ARTICLE III

MEETINGS

Section 1. Annual Meetings. For the purposes of electing directors, hearing and passing upon reports covering the previous fiscal year, and transacting such other business as may properly come before the meeting, the annual meeting of the members shall be held on the second Saturday of October each year, at such reasonable and convenient time and place as the board of directors may determine. The board of directors may fix a different date for such annual meeting provided that at least thirty (30) days written notice of such change shall be given to the members. It shall be the responsibility of the board of directors to make adequate plans and preparations for and to encourage member attendance at the annual meeting. Failure to hold the annual meeting at the designated time and place shall not work a forfeiture or dissolution of the Association.

Section 2. Special Meetings. A special meeting of the members may be called by resolution of the board of directors, or upon a written request signed by a majority of the directors, or by a written request signed by not less than twenty-five percent (25%) of the members, and it shall thereupon be the duty of the secretary to cause notice of such meeting to be given as hereinafter provided in Section 3. Such a meeting shall be held at a convenient time and place as designated by those calling the meeting.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, or by otherwise delivering a copy of such notice to each member, at least 30 days before the date of the meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting. If directors are to be elected at such meeting, the notice shall also contain the names of all persons nominated for director by the committee on nominations.

Section 4. Quorum. The presence at any meeting of 10% of the members entitled to vote shall constitute a quorum for any action, except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. A proxy form will be mailed or otherwise delivered to each member entitled to vote no later than 30 days prior to the meeting date. In order for a proxy to be registered as an official vote, it must be completed, dated, signed, received, and qualified prior to the meeting. It must clearly state the issue being voted upon, and specify the particular meeting and/or any adjournment thereof at which it is to be voted. Notwithstanding a member's execution of a proxy, his personal presence at any meeting or adjournment thereof shall revoke such proxy and he shall be entitled to vote in the same manner and with the same effect as if he had not executed a proxy.

ARTICLE IV

DIRECTORS

Section 1. General Powers. The business and affairs of the Association shall be managed by a board of (8) directors, which shall exercise all of the powers of the Association except such as are by law or by the Association's articles of incorporation or bylaws conferred upon or reserved to the members.

Section 2. Qualifications. No person shall be eligible to become or remain a director of the Association who is not a member of the Association.

Section 3. Term of Office. Directors shall be so nominated and elected that four (4) shall be elected for two (2) year terms at an annual member meeting. Upon their election, directors shall, subject to the provisions of these bylaws with respect to the removal of directors, serve until the annual meeting of the members of the year in which their terms expire or until their successors shall have been elected and shall have qualified. If for any reason an

election of directors shall not be held at an annual meeting of the members duly fixed and called pursuant to these bylaws, such election may be held at an adjournment of such meeting or at a subsequently held special or at the next annual meeting of the members. Failure of an election for a given year shall allow the incumbents whose directorships would have been voted on to hold over only until the next meeting at which a quorum is present.

Section 4. Election. At each annual meeting of the members, directors shall be elected by secret ballot by the members, and directors shall, unless the members determine otherwise in advance of the initial balloting, be elected as the four nominees who receive the highest number of votes being declared elected. Drawing by lot shall resolve, where necessary, any tie votes.

Section 5. Nominations. It shall be the duty of the board of directors to appoint at an appropriate time prior to the date of a meeting of the members at which directors are to be elected, a committee on nominations, consisting of not less than three (3) nor more than five (5) persons, who are members of the Association. The committee shall prepare a list of nominations for directors, which list may include a greater number of nominees than are to be elected. The list of nominees shall be announced to the members at least 20 days prior to the meeting, either by inclusion with the notice of the meeting, or by other appropriate means. The president at a meeting where directors are to be elected, after all nominations made by the committee have been duly announced, shall call for additional nominations from the floor. All nominees shall have agreed to serve before their name may be placed in nomination.

Section 6. Removal of Directors by Members. Any member may bring charges for cause against a director and, by filing with the secretary such charges in writing together with a petition signed by not less than ten percent (10%) of the Association's members, may request the removal of such director by reason thereof. Such director shall be informed in writing of the charges at least twenty (20) days prior to the meeting of the members at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person and to present evidence in respect of the charges; and the member or members bringing the charges against him shall have the same opportunity. The question of the removal of such director shall be considered and voted upon at such meeting and any vacancy created by such removal may be filled by vote of the members at such meeting without compliance with the foregoing provisions with respect of nominations.

Section 7. Vacancies. Subject to the provisions of these bylaws with respect to the filling of vacancies caused by the removal of directors by the members, a vacancy occurring in the board of directors shall be filled by the affirmative vote of a majority of the remaining directors. A director so appointed shall serve until the end of the term of the director whose office was originally vacated and until his successor is elected and qualified.

Section 8. Voting for Directors. In the election of directors, each member shall be entitled to cast a vote for the number of nominees which corresponds to the number of directors to be elected.

Section 9. Compensation, Expenses. No director shall receive compensation for any service he may render to the Association. A director may be reimbursed for his actual and necessarily incurred expenses in the performance of his duties.

ARTICLE V

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the board of directors shall also be held at such date, time and place as the board of directors may decide by resolution. Except when business to be transacted thereat shall require special notice, such regular meetings may be held without notice other than such resolution fixing the date, time and place thereof. PROVIDED, that any director absent from any meeting of the board at which such resolution initially determines or makes any change in the date, time or place of a regular meeting shall be entitled to receive written notice of such determination or change at least five (5) days prior to the next meeting of the board.

Section 2. Special Meetings. Special meetings of the board of directors may be called by board resolution, by the president, or by any two (2) directors, and it shall thereupon be the duty of the secretary to cause notice of such

meeting to be given as hereinafter provided. The president or the directors calling the meeting shall fix the date, time and place for the meeting.

Section 3. Notice of Directors Meetings. Written notice of the date, time and place and purpose or purposes of any special meeting of the board and, when the business to be transacted thereat shall require such, of any regular meeting of the board, shall be delivered to each director not less than give (5) days prior thereto, either personally or by mail, by or at the direction of the secretary or those calling the special meeting or by any other director or officer in the case of a regular meeting whose date, time and place have already been fixed by board resolution. The attendance of any director at any meeting of the board shall constitute a waiver of notice of such meeting unless such attendance shall be for the express purpose of objecting to the transaction of any business, or of one or more items of business, on the ground that the meeting shall not have been lawfully called or convened.

Section 4. Quorum. The presence of a majority of the directors in office shall be required for the transaction of business, and the affirmative votes of at least a majority of the directors in office shall be required for any action to be taken.

ARTICLE VI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The board of directors shall have power to: adopt and publish rules and regulations governing the use of any Common Property, and facilities, and the personal conduct of the Members and their guest thereon, and to establish penalties for the infraction thereof;

- (a) suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment or dues levied by the Association. For this purpose "default" means that the member is more than thirty (30) days delinquent from the date any such assessment or dues have been billed by the Association to the member.
- (b) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- (c) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties; and
- (d) borrow money for the purpose of protecting, adding to, improving, operating, maintaining or otherwise providing for the Common Property, and in aid thereof to grant a security interest therein superior to the Member's rights of use.

Section 2. Duties. It shall be the duty of the board of directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by a one-fourth (1/4) of the Members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
 - (1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
 - (2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - (3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date and/or to bring an action at law against the owner personally obligated to pay the same.
- (d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (t) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) pay all ad valorem taxes and public assessments relating to the Common Property.

ARTICLE VH

OFFICERS AND THEIR DUTIES

Section 1. Number and Title. The officers of the Association shall be a president, vice president, secretary, treasurer and such other officers as may from time to time be determined by the board of directors.

Section 2. Election and Term of Office. The officers named in Section 1 shall be elected by ballot, annually and without prior nomination, by and from the board of directors at the first meeting of the board held after each annual meeting of the members. If the election of such officers shall not be held at such meeting, it shall be held as soon thereafter as conveniently may be. Each such officer shall hold office until the meeting of the Board first held after the next succeeding annual meeting of the members or until his successor shall have been duly elected and shall have qualified, subject to the provisions of the bylaws with respect to the removal of directors by the members and to removal of officers by the board of directors.

Section 3. Removal. Any officer, agent or employee elected or appointed by the board of directors may be removed by the board whenever in its judgment the best interests of the Association will thereby be served; provided, however, that the board of directors shall be obligated to honor the terms of any employment contract or other contract previously entered into by the existing or a prior board of directors.

Section 4. Vacancies. A vacancy in any office elected by the board of directors shall be filled by the board for the unexpired portion of the term.

Section 5. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to these bylaws.

Section 6. Duties. The duties of the officers are as follows:

President

- (a) The president shall be the principal officer of the Association and shall preside at all meetings of the board of directors, and, unless determined otherwise by the board of directors, at all meetings of the members.
- (b) The president shall see that orders and resolutions of the board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.
- (c) The president in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the board of directors from time to time.

Vice-President

In the absence of the president, or in the event of his or her inability or refusal to act, the vice-president shall perform the duties of the president, and when so acting shall have all the powers of and be subject to all the restrictions upon the president; and shall perform such other duties as from time to time may be assigned by the board of directors.

Secretary

The secretary shall

- (a) record the votes and keep the minutes of all meetings and proceedings of the board and of the members;
- (b) keep the corporate seal of the Association and affix it on all papers requiring said seal;
- (c) serve notice of meetings of the board of directors and of the members;
- (d) keep appropriate current records showing the members of the Association together with their addresses;
- (e) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned by the board of directors.

Treasurer

The treasurer shall

- (a) receive and deposit in appropriate bank accounts, such banking institutions to be selected by the board of directors, all monies of the Association and shall disburse such funds as directed by resolution of the board of directors;
- (b) sign all checks and promissory notes of the Association;
- (c) keep proper books of account;
- (d) cause an annual audit, review, or compilation of the Association's books to be made by a public accountant at the completion of each fiscal year, if so directed by the board of directors;
- (e) prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of same to each of the members;
- (f) in general, perform all duties incident to the office of treasurer and such other duties as from time to time may be assigned by the board of directors.

Whenever the office of the treasurer is vacated and then filled by another person, the board of directors shall cause to be done an audit, review, or compilation of the Association's financial books and records, which shall be performed by such persons as the board of directors shall select.

Section 7. Delegation of Secretary's and Treasurer's Responsibilities. Notwithstanding the duties, responsibilities and authorities of the secretary and of the treasurer hereinbefore provided for, the board of directors by resolution may, except as otherwise limited by law, delegate wholly or in part, the responsibility and authority for, and the regular or routine administration of, one or more of such officers' duties to one or more agents, other officers or employees of the Association who are not directors.

Section 8. Association Manager. The board of directors may appoint an Association Manager, who may be, but who shall not be required to be, a member of the Association. Such manager shall perform such duties as the board of directors may from time to time require and shall have such authority as the board of directors may from time to time vest in him or her.

ARTICLE VIII

BOOKS AND RECORDS, CONTRACTS, CHECKS AND DEPOSITS AND INVESTMENTS

Section 1. Availability of records. The books, records, papers, declaration, articles of incorporation, and bylaws of the Association shall be available and subject to inspection by any member upon reasonable request

Section 2. Authority to contract. Except as otherwise provided in these bylaws, the board of directors may authorize any Association officer, agent or employee to enter into any contract or execute and deliver any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 3. Authority to sign. All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness, issued in the name of the Association, shall be signed by such officers, agents or employees of the Association and in such manner as shall from time to time be determined by the board of directors.

Section 4. All funds of the Association shall be deposited or invested from time to time to the credit of the Association in such bank or banks or in such financial securities or institutions as the board of directors may select.

ARTICLE IX

COMMITTEES

The board of directors shall appoint a Nominating Committee as provided in these bylaws. In addition, the board of directors may appoint such other committees as deemed appropriate in carrying out the purposes of the Association.

ARTICLE X

ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent if the assessment is not paid within thirty (30) days after the due date, and shall bear interest from the due date at a rate set by the Board of Directors, not to exceed the highest rate then permitted by N.C. law. The Association may bring an action at law against the owner personally obligated to pay the same and/or foreclose the lien against the property, in which case interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the Common Property or abandonment of his Lot. Dues and assessments not paid within thirty (30) days of the due date will otherwise cause the owner to lose voting rights and rights to the use of common property as otherwise provided for in these bylaws.

ARTICLE XI

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the members entitled to vote, such vote to be taken at a duly called meeting of the Association at which a quorum is present.

ARTICLE XII

PROHIBITION AGAINST SHARING IN EARNINGS

Section 1. Earnings. No director, officer, or employee of or member or person connected with the corporation, or any other private individual shall receive at any time any of the net earnings or pecuniary profit from the operations of the corporation, (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments), provided, that this shall not prevent the payment to any person of such reasonable compensation for services rendered to or for the corporation in effecting any of its purposes as shall be fixed by the board of directors; and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the corporation.

Section 2. Dissolution. Upon dissolution or winding up of the affairs of the corporation, whether voluntary or involuntary, the assets of the corporation, after all debts have been satisfied, then remaining in the hands of the board of directors shall be distributed, transferred, conveyed, delivered and paid over, in such amounts as the board of directors may determine or as may be determined by a court of competent jurisdiction upon application of the board of directors, exclusively to an entity which shall have as its purposes those set forth in the articles of incorporation hereof or to an appropriate public agency to be used for purposes similar to those stated in the articles of incorporation or to charitable, religious, scientific, literary, or educational organizations which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended.

ARTICLE XIII

LIMITATION ON ACTIVITIES

Notwithstanding any other provision hereof, this corporation is organized and shall be operated primarily as a property owners association, within the intentment of Section 528 of the Internal Revenue Code of 1954 as amended and the regulations thereunder.

ARTICLE XIV

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Yellowtop Mountain Property Owners Association, Inc. - 2006.

ARTICLE XV

AMENDMENTS

These bylaws may be altered, amended or repealed by the affirmative votes of not less than two-thirds (2/3) of the members present in person or by proxy at a duly called meeting in which a quorum present, but only if the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal, or an accurate summary explanation thereof.

ARTICLE XVI

CONFLICTS

In the case of any conflict between the articles of incorporation and these bylaws, the articles shall control; and in the case of any conflict between the Declaration and these bylaws, the Declaration shall control.

ARTICLE XVII

MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 2. Rules of Order. Parliamentary procedure at all meetings of the members, of the board of directors, of any committee provided for in these bylaws, or of any other committee of the members or board of directors which may from time to time be duly established shall be governed by the most recent edition of Roberts Rules of Order, except to the extent such procedure is otherwise determined by law or by the Association's articles of incorporation or bylaws.

Section 3. Waiver of Notice. Any member or director may waive, in writing, any notice of meetings required to be given by these bylaws.

Section 4. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

BYLAWS
OF
YELLOWTOP MOUNTAIN PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE III (AMMENDED)
MEETINGS

Section 1. Annual Meetings. For the purposes of electing directors, hearing and passing upon reports covering the previous fiscal year, and transacting such other business as may properly come before the meeting, the annual meeting of the members shall be held on the second Saturday of October each year, at such reasonable and convenient time and place as the board of directors may determine. The board of directors may fix a different date for such annual meeting provided that at least thirty(30) days written notice of such change shall be given to the members. It shall be the responsibility of the board of directors to make adequate plans and preparations for and to encourage member attendance at the annual meeting. Failure to hold the annual meeting at the designated time and place shall not work a forfeiture or dissolution of the Association.

ARTICLE VII {AMMENDED)

OFFICERS AND THEIR DUTIES

TREASURER

(d) cause an annual audit, review, or compilation of the Association's books to be made by a public accountant at the completion of each fiscal year, if so directed by the board of directors;

Whenever the office of the treasurer is vacated and then filled by another person, the board of directors shall cause to be done an audit, review, or compilation of the Association's financial books and records, which shall be performed by such persons as the board of directors shall select.